

CRIMES CODE (18 PA.C.S.), DOMESTIC RELATIONS (23 PA.C.S.) AND
JUDICIAL CODE (42 PA.C.S.) - OMNIBUS AMENDMENTS

Act of Jun. 5, 2020, P.L. 246, No. 32

Cl. 18

Session of 2020

No. 2020-32

SB 275

AN ACT

Amending Titles 18 (Crimes and Offenses), 23 (Domestic Relations) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in assault, further providing for the offense of stalking; in wiretapping and electronic surveillance, further providing for definitions; in child custody, further providing for consideration of criminal conviction; in domestic and sexual violence victim address confidentiality, further providing for penalties; and, in sentencing, further providing for sentences for second and subsequent offenses.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 2709.1(c)(2) of Title 18 of the Pennsylvania Consolidated Statutes is amended to read:

§ 2709.1. Stalking.

* * *

(c) Grading.--

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(2) A second or subsequent offense under this section or a first offense under subsection (a) if the person has been previously convicted of a crime of violence involving the same victim, family or household member, including, but not limited to, a violation of section 2701 (relating to simple assault), 2702 (relating to aggravated assault), 2705 (relating to recklessly endangering another person), **2718 (relating to strangulation)**, 2901 (relating to kidnapping), 3121 (relating to rape) or 3123 (relating to involuntary deviate sexual intercourse), an order issued under section 4954 (relating to protective orders) or an order issued under 23 Pa.C.S. § 6108 (relating to relief) shall constitute a felony of the third degree.

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Section 2. The definition of "crime of violence" in section 5702 of Title 18 is amended to read:

§ 5702. Definitions.

As used in this chapter, the following words and phrases shall have the meanings given to them in this section unless the context clearly indicates otherwise:

* * *

"Crime of violence." Any of the following:

(1) Any of the following crimes:

(i) Murder in any degree as defined in section 2502(a), (b) or (c) (relating to murder).

(ii) Voluntary manslaughter as defined in section 2503 (relating to voluntary manslaughter), drug delivery resulting in death as defined in section 2506(a) relating to drug delivery resulting in death, aggravated assault as defined in section 2702(a)(1) or (2) (relating to aggravated assault), **2718 (relating to strangulation)**,

kidnapping as defined in section 2901(a) or (a.1) (relating to kidnapping), rape as defined in section 3121(a), (c) or (d) (relating to rape), involuntary deviate sexual intercourse as defined in section 3123(a), (b) or (c) (relating to involuntary deviate sexual intercourse), sexual assault as defined in section 3124.1 (relating to sexual assault), aggravated indecent assault as defined in section 3125(a) or (b) (relating to aggravated indecent assault), incest as defined in section 4302(a) or (b) (relating to incest), arson as defined in section 3301(a) (relating to arson and related offenses), burglary as defined in section 3502(a)(1) (relating to burglary), robbery as defined in section 3701(a)(1)(i), (ii) or (iii) (relating to robbery) or robbery of a motor vehicle as defined in section 3702(a) (relating to robbery of [a] motor vehicle).

(iii) Intimidation of witness or victim as defined in section 4952(a) and (b) (relating to intimidation of witnesses or victims).

(iv) Retaliation against witness, victim or party as defined in section 4953(a) and (b) (relating to retaliation against witness, victim or party).

(v) Criminal attempt as defined in section 901(a) (relating to criminal attempt), criminal solicitation as defined in section 902(a) (relating to criminal solicitation) or criminal conspiracy as defined in section 903(a) (relating to criminal conspiracy) to commit any of the offenses specified in this definition.

(2) Any offense equivalent to an offense under paragraph (1) under the laws of this Commonwealth in effect at the time of the commission of that offense or under the laws of another jurisdiction.

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Section 3. Section 5329(a) of Title 23 is amended to read: § 5329. Consideration of criminal conviction.

(a) Offenses.--Where a party seeks any form of custody, the court shall consider whether that party or member of that party's household has been convicted of or has pleaded guilty or no contest to any of the offenses in this section or an offense in another jurisdiction substantially equivalent to any of the offenses in this section. The court shall consider such conduct and determine that the party does not pose a threat of harm to the child before making any order of custody to that party when considering the following offenses:

18 Pa.C.S. Ch. 25 (relating to criminal homicide).

18 Pa.C.S. § 2702 (relating to aggravated assault).

18 Pa.C.S. § 2706 (relating to terroristic threats).

18 Pa.C.S. § 2709.1 (relating to stalking).

18 Pa.C.S. § 2718 (relating to strangulation).

18 Pa.C.S. § 2901 (relating to kidnapping).

18 Pa.C.S. § 2902 (relating to unlawful restraint).

18 Pa.C.S. § 2903 (relating to false imprisonment).

18 Pa.C.S. § 2910 (relating to luring a child into a motor vehicle or structure).

18 Pa.C.S. § 3121 (relating to rape).

18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).

18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

18 Pa.C.S. § 3124.1 (relating to sexual assault).

18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

18 Pa.C.S. § 3126 (relating to indecent assault).

18 Pa.C.S. § 3127 (relating to indecent exposure).

18 Pa.C.S. § 3129 (relating to sexual intercourse with animal).
18 Pa.C.S. § 3130 (relating to conduct relating to sex offenders).
18 Pa.C.S. § 3301 (relating to arson and related offenses).
18 Pa.C.S. § 4302 (relating to incest).
18 Pa.C.S. § 4303 (relating to concealing death of child).
18 Pa.C.S. § 4304 (relating to endangering welfare of children).
18 Pa.C.S. § 4305 (relating to dealing in infant children).
18 Pa.C.S. § 5902(b) (relating to prostitution and related offenses).
18 Pa.C.S. § 5903(c) or (d) (relating to obscene and other sexual materials and performances).
18 Pa.C.S. § 6301 (relating to corruption of minors).
18 Pa.C.S. § 6312 (relating to sexual abuse of children).
18 Pa.C.S. § 6318 (relating to unlawful contact with minor).
18 Pa.C.S. § 6320 (relating to sexual exploitation of children).
Section 6114 (relating to contempt for violation of order or agreement).
The former 75 Pa.C.S. § 3731 (relating to driving under influence of alcohol or controlled substance).
75 Pa.C.S. Ch. 38 (relating to driving after imbibing alcohol or utilizing drugs).
Section 13(a)(1) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, to the extent that it prohibits the manufacture, sale or delivery, holding, offering for sale or possession of any controlled substance or other drug or device.

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Section 4. Section 6711(b)(2) of Title 23 is amended to read:

§ 6711. Penalties.

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(b) Access by fraud or misrepresentation.--

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(2) A first offense under paragraph (1) shall be graded as a felony of the third degree if it is committed by any person who has previously been convicted of a crime of violence involving the program participant under paragraph (1) or the program participant's family or household member as defined in section 6102 (relating to definitions), including:

18 Pa.C.S. § 2701 (relating to simple assault);
18 Pa.C.S. § 2702 (relating to aggravated assault);
18 Pa.C.S. § 2705 (relating to recklessly endangering another person);
18 Pa.C.S. § 2709 (relating to harassment);
18 Pa.C.S. § 2709.1 (relating to stalking);
18 Pa.C.S. § 2718 (relating to strangulation);
18 Pa.C.S. § 2901 (relating to kidnapping);
18 Pa.C.S. § 3121 (relating to rape);
18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse);
18 Pa.C.S. § 4954 (relating to protective orders); or
23 Pa.C.S. § 6108 (relating to relief).

* * *

Section 5. Section 9714(g) of Title 42 is amended to read:
§ 9714. Sentences for second and subsequent offenses.

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(g) Definition.--As used in this section, the term "crime of violence" means murder of the third degree, voluntary manslaughter, manslaughter of a law enforcement officer as defined in 18 Pa.C.S. § 2507(c) or (d) (relating to criminal homicide of law enforcement officer), murder of the third degree involving an unborn child as defined in 18 Pa.C.S. § 2604(c) (relating to murder of unborn child), aggravated assault of an unborn child as defined in 18 Pa.C.S. § 2606 (relating to aggravated assault of unborn child), aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to aggravated assault), assault of law enforcement officer as defined in 18 Pa.C.S. § 2702.1 (relating to assault of law enforcement officer), use of weapons of mass destruction as defined in 18 Pa.C.S. § 2716(b) (relating to weapons of mass destruction), terrorism as defined in 18 Pa.C.S. § 2717(b)(2) (relating to terrorism), **strangulation when the offense is graded as a felony as defined in 18 Pa.C.S. § 2718 (relating to strangulation)**, trafficking of persons when the offense is graded as a felony of the first degree as provided in [18 Pa.C.S. § 3002 (relating to trafficking of persons)] **18 Pa.C.S. § 3011 (relating to trafficking in individuals)**, rape, involuntary deviate sexual intercourse, aggravated indecent assault, incest, sexual assault, arson endangering persons or aggravated arson as defined in 18 Pa.C.S. § 3301(a) or (a.1) (relating to arson and related offenses), ecoterrorism as classified in 18 Pa.C.S. § 3311(b)(3) (relating to ecoterrorism), kidnapping, burglary as defined in 18 Pa.C.S. § 3502(a)(1) (relating to burglary), robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery), or robbery of a motor vehicle, drug delivery resulting in death as defined in 18 Pa.C.S. § 2506(a) (relating to drug delivery resulting in death), or criminal attempt, criminal conspiracy or criminal solicitation to commit murder or any of the offenses listed above, or an equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense or an equivalent crime in another jurisdiction.

Section 6. This act shall take effect in 60 days.

APPROVED--The 5th day of June, A.D. 2020.

TOM WOLF